

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: § Group Art Unit: 2645
Michael Wayne Brown, *et al.* §
Serial No.: 10/015,280 § Examiner: Elahee, MD S
Filed: December 12, 2001 § Atty Docket No.: AUS920010823US1
Title: Destination Device Based Callee § Customer No. 34533
Identification § Confirmation No.: 7043

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AMENDED APPEAL BRIEF

Honorable Commissioner:

This is an Amended Appeal Brief filed in response to a Notice of Non-Compliant Appeal Brief of October 19, 1006. This Amended Appeal Brief amends the Appeal Brief that was originally and timely filed on July 27, 2005 pursuant to 37 CFR § 41.37 in response to the Final Office Action of March 11, 2005 (“Office Action”), and pursuant to the Notice of Appeal filed May 27, 2005.

REAL PARTY IN INTEREST

The real party in interest is the patent assignee, International Business Machines Corporation (“IBM”), a New York corporation having a place of business at Armonk, New York 10504.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences within the meaning of 37 CFR § 41.37(c)(1)(ii).

STATUS OF CLAIMS

Status of claims in accordance with 37 CFR § 41.37(c)(1)(iii): Thirty-nine (39) claims were filed in the original application in this case. Claims 1-30 and 35-39 are pending in the case. Claims 31-34 were withdrawn in response to a restriction requirement. Claims 1-30 and 35-39 stand rejected in the Final Office Action. Claims 1-30 and 35-39 are on appeal.

STATUS OF AMENDMENTS

Status of amendments in accordance with 37 CFR § 41.37(c)(1)(iv): No amendments were submitted after final rejection. The claims as currently presented are included in the Appendix of Claims that accompanies this Appeal Brief.

SUMMARY OF CLAIMED SUBJECT MATTER

Appellants provide the following summary of the claimed subject matter according to 37 CFR § 41.37(c)(1)(v). This summary includes a concise explanation of the subject matter defined in each of the independent claims involved in the appeal and includes references to the specification by page and line number and to the drawings by reference characters. The six independent claims involved in this appeal are claims 1, 12, 23, 35, 37, and 39. Claim 1 recites a method for identifying a particular callee. Claim 12 recites a system for identifying a particular callee. Claim 23 recites a computer program product for identifying a particular callee. Claim 35 recites a method for identifying a callee. Claim 37 recites a system for identifying a callee. Claim 39 recites a computer program product for identifying a callee.

Claim 1 recites a method for identifying a particular callee. The method of claim 1 includes detecting, at a destination device, a voice utterance of a callee (page 13, lines 6-26, Figure 1, reference 8a-n, page 18, lines 4-12, page 19, line 26- page 21, line 24, reference 8a-n, page 30, line 1-page 34, line 25, Figure 4, references S1-S22). The method of claim 1 includes identifying, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call (page 13, lines 6-26, Figure 1, reference 8a-n, page 18, lines 4-12, page 19, line 26- page 21, line 24, reference 8a-n, page 30, line 1-page 34, line 25, Figure 4, references S1-S22).

Claim 12 recites a system for identifying a particular callee. The system of claim 12 includes a destination device enabled to receive a call (page 13, lines 6-26, Figure 1, reference 8a-n, page 18, lines 4-12, page 19, line 26- page 21, line 24, reference 8a-n, page 30, line 1-page 34, line 25, Figure 4, references S1-S22). The system of claim 12 includes means for detecting a voice utterance of a callee at said destination device (page 13, lines 6-26, Figure 1, reference 8a-n, page 18, lines 4-12, line 26- page 21, line 24, reference 8a-n, page 30, line 1-page 34, line 25, Figure 4, references S1-S22). The system of claim 12 includes and means for identifying a callee identity associated with said voice utterance at said destination device (page 13, lines 6-26, Figure 1, reference 22, page 18, lines 4-12, page 19, line 26- page 21, line 24, reference 8a-n, page 30, line 1-page 34, line 25, Figure 4, references S1-S22).

Claim 23 recites a computer program product for identifying a particular callee. The computer program product of claim 23 includes a recording medium (page 37, lines 6-21). The computer program product of claim 23 includes means, recorded on said recording medium, for detecting a voice utterance of a callee at a destination device (page 13, lines 6-26, Figure 1, reference 8a-n, page 18, lines 4-12, page 19, line 26- page 21, line 24, reference 8a-n, page 30, line 1-page 34, line 25, Figure 4, references S1-S22). The computer program product of claim 23 includes means, recorded on said recording medium, for identifying a callee identity associated with said voice utterance at said

destination device (page 13, lines 6-26, Figure 1, reference 8a-n, page 18, lines 4-12, page 19, line 26- page 21, line 24, reference 8a-n, page 30, line 1-page 34, line 25, Figure 4, references S1-S22).

Claim 35 recites a method for identifying a callee. The method of claim 35 includes detecting a biometric input at a biometric enabled destination device (page 18, lines 4-12, page 19, line 26- page 21, line 24, reference 8a-n). The method of claim 35 includes identifying a callee identity associated with said biometric input at said destination device, such that said callee identity is transmittable as an authenticated identity of said callee for a call (page 19, line 26- page 21, line 24, reference 8a-n).

Claim 37 recites a system for identifying a callee. The system of claim 37 includes a biometric input enabled device (page 19, line 26- page 21, line 24, reference 8a-n). The system of claim 37 includes means for detecting a biometric input at said biometric input enabled destination device (page 19, line 26- page 21, line 24, reference 8a-n). The system of claim 37 includes means for identifying a callee identity associated with said biometric input at said destination device, wherein said callee identity is transmittable as an authenticated identity of said callee for a call (page 19, line 26- page 21, line 24, reference 8a-n).

Claim 39 recites a computer program product for identifying a callee. The computer program product of claim 39 includes a recording medium (page 37, lines 6-21); means, recorded on said recording medium, for detecting a biometric input at said biometric input enabled destination device (page 19, line 26- page 21, line 24, reference 8a-n). The computer program product of claim 39 means, recorded on said recording medium, for identifying a callee identity associated with said biometric input at said destination device, wherein said callee identity is transmittable as an authenticated identity of said callee for a call (page 19, line 26- page 21, line 24, reference 8a-n).

GROUNDS OF REJECTION

In accordance with 37 CFR § 41.37(c)(1)(vi), Appellants provide the following concise statement of each ground of rejection:

1. Claims 1, 4, 5, 7, 8, 10-12, 15, 16, 18, 19, 21-23, 26, 27, 29, 30, and 35-39 stand rejected under 35 U.S.C § 102(e) as being anticipated by Gallick (U.S. Patent No. 6,678,359).
2. Claims 2, 13, and 24 stand rejected under 35 U.S.C. 103 (a) as being unpatentable over Gallick (U.S. Patent No. 6,678,359) in view of Bartholomew et al. (U.S. Patent No. 6,167,119).
3. Claim 3, 14, and 25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gallick (U.S. Patent No. 6,678,359) in view of McAllister (U.S. Patent No. 6,101,242).
4. Claims 6, 17, and 28 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gallick (U.S. Patent No. 6,678,359) in view of Timonen et al. (U.S. Pub. No. 2002/0058494).
5. Claims 9 and 20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gallick (U.S. Patent No. 6,678,359) in view of Baker (U.S. Patent No. 5,533,109).

ARGUMENT

Appellants present the following arguments pursuant to 37 CFR § 41.37(c)(1)(vii) regarding the grounds of rejection in the present case.

Claim Rejections – 35 U.S.C. § 102

Argument Regarding The First Ground Of Rejection: Claims 1, 4, 5, 7, 8, 10-12, 15, 16, 18, 19, 21-23, 26, 27, 29, 30, and 35-39 stand rejected under 35 U.S.C § 102(e) as being anticipated by Gallick

Claims 1, 4, 5, 7, 8, 10-12, 15, 16, 18, 19, 21-23, 26, 27, 29, 30, and 35-39 stand rejected under 35 U.S.C § 102(e) as being anticipated by Gallick (U.S. Patent No. 6,678,359). To anticipate under 35 U.S.C. § 102(e), two basic requirements must be met. The first requirement of anticipation is that Gallick must disclose each and every element as set forth in Applicants' claims. The second requirement of anticipation is that Gallick must enable Applicants' claims. Gallick does not meet either requirement and therefore does not anticipate Applicants' claims.

Gallick Does Not Disclose Each and Every Element of Applicants' Claims

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Independent claim 1 claims:

A method for identifying a particular callee, said method comprising:

detecting, at a destination device, a voice utterance of a callee; and

identifying, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call.

The Office Action states that Gallick discloses “identifying, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is

transmittable as an authenticated identity of said callee for a call" at column 3, lines 64-67; column 6, lines 3-14, 51-56; and column 6, lines 51-53. Column 3, lines 64-67 actually states: "If, however, the individual answering the call at the called facility has been identified that identity will be transmitted back to the calling subscriber." Column 6, lines 3-14, discloses using voice identification software to analyze the speech of an answering party at the called facility. Column 6, lines 51-56, discloses capturing utterances of the called party and sending the captured utterances to caller verification routines for an attempted identification of the called party.

The cited section of Gallick does not disclose "identifying, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call" as claimed in the present application. Instead Gallick discloses a voice identification recognizer located on a personal computer or on a server on the network where the softphone resides. Gallick, column 6, lines 4-20. Therefore, Gallick does not disclose each and every element of independent claim 1 and does not anticipate claim 1. Independent claim 1 is patentable and should be allowed. Applicants therefore request reversal of the rejection of claim 1.

Dependent claims 4, 5, 7, 8, 10 and 11 depend from independent claim 1 and include all of the limitations of claim 1. Because Gallick does not disclose each and every element of claim 1, Gallick does not disclose each and every element of claims 4, 5, 7, 8, 10 and 11. Gallick therefore does not anticipate claims 4, 5, 7, 8, 10 and 11. Claims 4, 5, 7, 8, 10 and 11 are also patentable and should be allowed. Applicants therefore request reversal of the rejection of claims 4, 5, 7, 8, 10 and 11.

Gallick Does Not Disclose Each and Every Element of
Independent Claims 12 and 23

Independent claims 12 and 23 claim a system and computer program product corresponding to method claim 1. More particularly, independent claims 12 and 23 claim system and computer program products for identifying a particular callee. The Office Action rejects claims 12 and 23 on the same grounds as claim 1. In response, Applicants

respectfully note that for the same reasons that Gallick does not disclose each and every element of claim 1, Gallick does not disclose each and every element of claims 12 and 23. Gallick therefore does not anticipate system and computer program products claims 12 and 23, respectively, and claims 12 and 23 are also patentable and should be allowed. Applicants therefore request reversal of the rejection of claims 12 and 23.

Dependent claims 15, 16, 18, 19, 21, 22, 26, 27, 29, and 30 depend from independent claims 12 and 23 and include all of the limitations of claims 12 and 23. Because Gallick does not disclose each and every element of claims 12 and 23, Gallick also does not disclose each and every element of dependent claims 15, 16, 18, 19, 21, 22, 26, 27, 29 and 30. Gallick therefore does not anticipate claims 15, 16, 18, 19, 21, 22, 26, 27, 29 and 30 and claims 15, 16, 18, 19, 21, 22, 26, 27, 29 and 30 are patentable and should be allowed. Applicants request reversal of the rejection of claims 15, 16, 18, 19, 21, 22, 26, 27, 29 and 30.

Gallick Does Not Disclose Each And Every Element of Independent Claim 35

Gallick does not disclose each and every element of claim 35. Independent claim 35 claims:

A method for identifying a callee, said method comprising:

detecting a biometric input at a biometric enabled destination device;

identifying a callee identity associated with said biometric input at said destination device, such that said callee identity is transmittable as an authenticated identity of said callee for a call.

The Office Action states that Gallick discloses detecting biometric input at a biometric enabled destination device at Figure 1, Figure 2b, column 1, line 50-column 2, line 11, column 3, lines 64-67 and col. 6, lines 3-14, 51-56. Figure 1 of Gallick actually sets forth

a block diagram of a communications system. Figure 2b actually sets forth a flow chart illustrating the method described in part at column 6, lines 3-14 and 51-56. Column 1, line 50-column 2, line 11 actually describes called party identification particularly adapted to VoIP calls. Column 3, lines 64-67 actually states: "If, however, the individual answering the call at the called facility has been identified that identity will be transmitted back to the calling subscriber." Column 6, lines 3-14 discloses using voice identification software to analyze the speech of an answering party at the called facility. Column 6, lines 51-56 discloses capturing utterances of the called party and sending the captured utterances to caller verification routines for an attempted identification of the called party.

The cited sections of Gallick do not disclose "identifying a callee identity associated with said biometric input at said destination device, such that said callee identity is transmittable as an authenticated identity of said callee for a call." Instead, Gallick discloses a voice identification recognizer located on a personal computer or on a server on the network where the softphone resides. Gallick, column 6, lines 4-20. Therefore, Gallick does not disclose each and every element of independent claim 35 and does not anticipate claim 35. Independent claim 35 is patentable and should be allowed.

Applicants request reversal of the rejection of claim 35.

Dependent claim 36 depends from independent claim 35 and includes all of the limitations of independent claim 35. Because Gallick does not disclose each and every element of independent claim 35, Gallick does not disclose each and every element of dependent claim 36 and does not anticipate claim 36. Claim 36 is therefore also patentable and should be allowed. Applicants request reversal of the rejection of claim 36.

Gallick Does Not Disclose Each and Every Element of Independent Claims 37 and 39

Independent claims 37 and 39 claim system and computer program product claims corresponding to method claim 35. More particularly, independent claims 37 and 39

recite system and computer program product for identifying a callee. Claims 37 and 39 stand rejected for the same reason as independent claim 35. Because Gallick does not disclose each and every element of method claim 35, Gallick does not disclose each and every element of claims 37 and 39 and therefore does not anticipate claims 37 and 39. Claim 37 and 39 are therefore also patentable and should be allowed. Applicants request reversal of the rejection of claims 37 and 39.

Dependent claim 38 depends from independent claim 37 and includes all of the limitations of independent claim 37. Because Gallick does not disclose each and every element of independent claim 37, Gallick does not disclose each and every element of dependent claim 38 and does not anticipate claim 38. Claim 38 is therefore also patentable and should be allowed. Applicants request reversal of the rejection of claim 38.

Gallick Is Not An Enabling
Disclosure of Applicants' Claims

There are two required aspects of anticipation. Not only must Gallick disclose each and every element of the claims of the present invention within the meaning of *Verdegaal* in order to anticipate the claims, but Gallick must also be an enabling disclosure of the claims of the present invention within the meaning of *In re Hoeksema*. The Appellants' claims in *Hoeksema* were rejected because an earlier patent disclosed a close structural similarity to appellant's chemical compound. The court in *Hoeksema* stated: "We think it is sound law, consistent with the public policy underlying our patent law, that before any publication can amount to a statutory bar to the grant of a patent, its disclosure must be such that a skilled artisan could take its teachings in combination with his own knowledge of the particular art and be in possession of the invention." The meaning of *Hoeksema* for the present case is that to anticipate under 35 USC 102(e) Gallick must place one of skill in the art in possession of Applicants' claims.

Gallick does not enable independent claim 1. Independent claim 1 claims:

A method for identifying a particular callee, said method comprising:

detecting, at a destination device, a voice utterance of a callee; and

identifying, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call.

The Office Action states that Gallick discloses “identifying, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call” at column 3, lines 64-67; column 6, lines 3-14, 51-56; and column 6, lines 51-53. Column 3, lines 64-67, actually states: “If, however, the individual answering the call at the called facility has been identified that identity will be transmitted back to the calling subscriber.” Column 6, lines 3-14, discloses using voice identification software to analyze the speech of an answering party at the called facility. Column 6, lines 51-56, discloses capturing utterances of the called party and sending the captured utterances to a caller verification routines for an attempted identification of the called party.

The cited sections of Gallick do not place one of skill in the art in possession of “identifying, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call” as claimed in the present application. Instead Gallick discloses a voice identification recognizer located on a personal computer or on a server on the network where the softphone resides. Gallick, column 6, lines 4-20. Therefore, Gallick does not place one of skill in the art in possession of independent claim 1 and does not anticipate claim 1. Independent claim 1 is patentable and should be allowed. Applicants request reversal of the rejection of claim 1.

Dependent claims 4, 5, 7, 8, 10 and 11 depend from independent claim 1 and include all of the limitations of claim 1. Because Gallick does not place one of skill in the art in

possession of claim 1, Gallick does not place one of skill in the art in possession of claims 4, 5, 7, 8, 10 and 11. Gallick therefore does not anticipate claims 4, 5, 7, 8, 10 and 11. Claims 4, 5, 7, 8, 10 and 11 are also patentable and should be allowed. Applicants request reversal of the rejection of claims 4, 5, 7, 8, 10 and 11.

Gallick Does Not Enable
Independent Claims 12 and 23

Independent claims 12 and 23 claim a system and computer program product corresponding to method claim 1. More particularly, independent claims 11 and 23 claim system and computer program products for identifying a particular callee. The Office Action rejects claims 12 and 23 on the same grounds as claim 1. In response, Applicants respectfully note that for the same reasons Gallick does not place one of skill in the art in possession of claim 1, Gallick does not place one of skill in the art in possession of claims 12 and 23. Gallick therefore does not anticipate system and computer program products claims 12 and 23, respectively, and claims 12 and 23 are also patentable and should be allowed. Applicants request reversal of the rejection of claims 12 and 23.

Dependent claims 15, 16, 18, 19, 21, 22, 26, 27, 29 and 30 depend from independent claims 12 and 23 and include all of the limitations of claims 12 and 23. Because Gallick does not place one of skill in the art in possession of claims 12 and 23, Gallick does not place one of skill in the art in possession of claims 15, 16, 18, 19, 21, 22, 26, 27, 29 and 30. Gallick therefore does not anticipate claims 15, 16, 18, 19, 21, 22, 26, 27, 29 and 30. Claims 15, 16, 18, 19, 21, 22, 26, 27, 29 and 30 are also patentable and should be allowed. Applicants request reversal of the rejection of claims 15, 16, 18, 19, 21, 22, 26, 27, 29 and 30.

Gallick Does Not Enable Independent Claim 35

Gallick is not an enabling disclosure of independent claim 35. Independent claim 35 claims:

A method for identifying a callee, said method comprising:

detecting a biometric input at a biometric enabled destination device;

identifying a callee identity associated with said biometric input at said destination device, such that said callee identity is transmittable as an authenticated identity of said callee for a call.

The Office Action states that Gallick discloses detecting biometric input at a biometric enabled destination device at Figure 1, Figure 2b, column 1, line 50-column 2, line 11, column 3, lines 64-67, and col. 6, lines 3-14, 51-56. Figure 1 of Gallick actually sets forth a block diagram of a communications system. Figure 2b actually sets forth a flow chart illustrating the method described in part at column 6, lines 3-14, and 51-56.

Column 1, line 50-column 2, line 11, actually describes called party identification particularly adapted to VoIP calls. Column 3, lines 64-67, actually states: "If, however, the individual answering the call at the called facility has been identified that identity will be transmitted back to the calling subscriber." Column 6, lines 3-14, discloses using voice identification software to analyze the speech of an answering party at the called facility. Column 6, lines 51-56, discloses capturing utterances of the called party and sending the captured utterances to caller verification routines for an attempted identification of the called party.

The cited sections of Gallick do not place one of skill in the art in possession of "identifying a callee identity associated with said biometric input at said destination device, such that said callee identity is transmittable as an authenticated identity of said callee for a call." Instead, Gallick discloses a voice identification recognizer located on a personal computer or on a server on the network where the softphone resides. Gallick, column 6, lines 4-20. Therefore, Gallick does not place one of skill in the art in possession of independent claim 35 and does not anticipate claim 35. Independent claim 35 is patentable and should be allowed. Applicants request reversal of the rejection of claim 35.

Dependent claim 36 depends from independent claim 35 and includes all of the limitations of independent claim 35. Because Gallick does not place one of skill in the art in possession of independent claim 35, Gallick does not disclose each and every element of dependent claim 36 and does not anticipate claim 36. Claim 36 is therefore also patentable and should be allowed. Applicants request reversal of the rejection of claims 36.

Gallick Does Not Enable Independent Claims 37 and 39

Independent claims 37 and 39 claim system and computer program product claims corresponding to method claim 35. More particularly, independent claims 37 and 39 recite system and computer program product for identifying a callee. Claims 37 and 39 stand rejected for the same reason as independent claim 35. Because Gallick does not place one of skill in the art in possession of claim 35, Gallick does not place one of skill in the art in possession of claims 37 and 39 and therefore does not anticipate claims 37 and 39. Claim 37 and 39 are therefore also patentable and should be allowed. Applicants request reversal of the rejection of claims 37 and 39.

Dependent claim 38 depends from independent claim 37 and includes all of the limitations of independent claim 37. Because Gallick does not place one of skill in the art in possession of independent claim 37, Gallick does not place one of skill in the art in possession of dependent claim 38 and does not anticipate claim 38. Claim 38 is therefore also patentable and should be allowed. Applicants request reversal of the rejection of claim 38.

Claim Rejections – 35 U.S.C. § 103

Argument Regarding the Second Ground Of
Rejection: Claims 2, 13, and 24 Stand Rejected
Under 35 U.S.C. 103 (a) As Being Unpatentable Over Gallick
In View Of Bartholomew et al.

Claims 2, 13, and 24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gallick (U.S. Patent No. 6,678,359) in view of Bartholomew et al. (U.S. Patent No. 6,167,119). Claim 3, 14, and 25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gallick (U.S. Patent No. 6,678,359) in view of McAllister (U.S. Patent No. 6,101,242). Claims 6, 17, and 28 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gallick (U.S. Patent No. 6,678,359) in view of Timonen et al. (U.S. Pub. No. 2002/0058494). Claims 9 and 20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gallick (U.S. Patent No. 6,678,359) in view of Baker (U.S. Patent No. 5,533,109). Applicants respectfully traverse each rejection. Not one of the proposed combinations can establish a *prima facie* case of obviousness.

To establish a *prima facie* case of obviousness, three basic criteria must be met. *Manual of Patent Examining Procedure* §2142. The first element of a *prima facie* case of obviousness under 35 U.S.C. § 103 is that there must be a suggestion or motivation to combine Gallick and Bartholomew, McAllister, Timonen, or Baker. *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991). The second element of a *prima facie* case of obviousness under 35 U.S.C. § 103 is that there must be a reasonable expectation of success in the proposed combinations of Gallick and Bartholomew, McAllister, Timonen, or Baker. *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097, 231 USPQ 375, 379 (Fed. Cir. 1986). The third element of a *prima facie* case of obviousness under 35 U.S.C. § 103 is that the proposed combinations of Gallick and Bartholomew, McAllister, Timonen, or Baker must teach or suggest all of Applicants' claim limitations. *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974). The proposed combinations of Gallick and Bartholomew, McAllister, Timonen, or Baker do not

establish even a *prima facie* case of obviousness and therefore cannot support a rejection under 35 U.S.C. 103. The rejections should therefore be reversed and the case allowed.

Gallick and Bartholomew

Claims 2, 13, and 24 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Gallick in view of Bartholomew. The combination of Gallick and Bartholomew cannot establish a *prima facie* case of obviousness because the proposed combination does not teach each and every element of claims 2, 13, and 24, there is no suggestion or motivation to make the proposed combination, and there is no reasonable expectation of success in the proposed combination. Applicants request reversal of the rejection of claims 2, 13, and 24.

No Suggestion or Motivation to
Combine of Gallick and Bartholomew

To establish a *prima facie* case of obviousness, there must be a suggestion or motivation to combine Gallick and Bartholomew. *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991). There is no suggestion or motivation to combine Gallick and Bartholomew, because Bartholomew teaches away from Applicants' claims. Teaching away from the claims in the present application is a *per se* demonstration of lack of *prima facie* obviousness. *In re Dow Chemical Co.*, 837 F.2d 469, 5 U.S.P.Q.2d 1529 (Fed. Cir. 1988); *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); *In re Neilson*, 816 F.2d 1567, 2 U.S.P.Q.2d 1525 (Fed. Cir. 1987). Independent claim 1 claims a method for identifying a particular callee that includes "identifying, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call." Bartholomew discloses using an intermediary intelligent peripheral ('IP')—not a destination device and therefore, teaches away from Applicants' claims. *See for example*, Bartholomew, column 11, line 62 – column 12, line 50. As such, the proposed combination of Gallick and Bartholomew cannot establish a *prima facie* case of obviousness. The rejection should be reversed and the case allowed.

No Reasonable Expectation of Success
In the Proposed Combination of Gallick and Bartholomew

To establish a *prima facie* case of obviousness, there must be a reasonable expectation of success in the proposed combination of Gallick and Bartholomew. *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097, 231 USPQ 375, 379 (Fed. Cir. 1986). There is no reasonable expectation of success to combine Gallick and Bartholomew because the proposed combination changes the principle of operation of Bartholomew. “If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.” *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). Bartholomew discloses an intermediary intelligent peripheral—not a destination device. *See for example*, Bartholomew, column 11, line 62 – column 12, line 50. To modify Bartholomew to teach “identifying, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call,” would change the stated principle operation of Bartholomew. The proposed combination and Gallick and Bartholomew therefore cannot establish a *prima facie* case of obviousness. The rejection should be reversed and the case allowed.

The Combination of Gallick and Bartholomew
Does Not Teach All of Applicants’ Claim Limitations

To establish a *prima facie* case of obviousness, the proposed combination of Gallick and Bartholomew must teach or suggest all of Applicants’ claim limitations. *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974). Claims 2, 13, and 24 include identifying, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call. As demonstrated above, Gallick does not teach this limitation. Gallick instead discloses a voice identification recognizer located on a personal computer or on a server on the network where the softphone resides. Gallick, column 6, lines 4-20.

Bartholomew also does not teach this limitation. Bartholomew instead discloses an intermediary intelligent peripheral –not a destination device. *See for example*, Bartholomew, column 11, line 62 – column 12, line 50. As such, the combination of Gallick and Bartholomew cannot establish a *prima facie* case and the rejection should be reversed.

**Argument Regarding The Third Ground Of
Rejection: Claim 3, 14, And 25
Stand Rejected Under 35 U.S.C. 103(A)
As Being Unpatentable Over Gallick In View Of McAllister**

Claim 3, 14, And 25 Stand Rejected Under 35 U.S.C. 103(A) As Being Unpatentable Over Gallick (U.S. Patent No. 6,678,359) In View Of McAllister (U.S. Patent No. 6,101,242). The combination of Gallick and McAllister cannot establish a *prima facie* case of obviousness because the proposed combination does not teach each and every element of claims 3, 14, and 25, there is no suggestion or motivation to make the proposed combination, and there is no reasonable expectation of success in the proposed combination. Applicants request reversal of the rejection of claims 3, 14, and 25.

**No Suggestion or Motivation to
Combine of Gallick and McAllister**

To establish a *prima facie* case of obviousness, there must be a suggestion or motivation to combine Gallick and McAllister. *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991). There is no suggestion or motivation to combine Gallick and McAllister, because McAllister teaches away from Applicants' claims. Teaching away from the claims in the present application is a *per se* demonstration of lack of *prima facie* obviousness. *In re Dow Chemical Co.*, 837 F.2d 469, 5 U.S.P.Q.2d 1529 (Fed. Cir. 1988); *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); *In re Neilson*, 816 F.2d 1567, 2 U.S.P.Q.2d 1525 (Fed. Cir. 1987). Independent claim 1 claims method for identifying a particular callee that includes “identifying, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call.” McAllister discloses

an intermediary intelligent peripheral—not a destination device and therefore teaches away from Applicants' claims. *See for example*, McAllister, column 12, line 47 – column 13, line 35. As such, the proposed combination of Gallick and McAllister cannot establish a *prima facie* case of obviousness. The rejection should be reversed and the case allowed.

No Reasonable Expectation of Success
In the Proposed Combination of Gallick and McAllister

To establish a *prima facie* case of obviousness, there must be a reasonable expectation of success in the proposed combination of Gallick and McAllister. *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097, 231 USPQ 375, 379 (Fed. Cir. 1986). There is no reasonable expectation of success to combine Gallick and McAllister because the proposed combination changes the principle of operation of McAllister. “If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.” *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). McAllister discloses an intermediary intelligent peripheral. *See for example*, McAllister, column 11, line 62 – column 12, line 50. To modify McAllister to teach “identifying, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call,” would change the principle operation of McAllister. The proposed combination and Gallick and McAllister therefore cannot establish a *prima facie* case of obviousness. The rejection should be reversed and the case allowed.

The Combination of Gallick and McAllister
Does Not Teach All of Applicants' Claim Limitations

To establish a *prima facie* case of obviousness, the proposed combination of Gallick and McAllister must teach or suggest all of Applicants' claim limitations. *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974). Claims 2, 13, and 24 include

“identifying, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call.” As demonstrated above, Gallick does not teach this limitation. Gallick instead discloses a voice identification recognizer located on a personal computer or on a server on the network where the softphone resides. Gallick, column 6, lines 4-20. McAllister also does not disclose this limitation. McAllister instead discloses an intermediary intelligent peripheral—not a destination device and therefore teaches away from Applicants’ claims. *See for example*, McAllister, column 12, line 47 – column 13, line 35. As such, the combination of Gallick and McAllister cannot establish a *prima facie* case and the rejection should be reversed.

**Argument Regarding The Fourth Ground Of
Rejection: Claims 6, 17, And 28 Stand Rejected Under
35 U.S.C. 103(A) As Being Unpatentable Over
Gallick In View Of Timonen**

Claims 6, 17, and 28 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gallick (U.S. Patent No. 6,678,359) in view of Timonen et al. (U.S. Pub. No. 2002/0058494). The combination of Gallick and Timonen cannot establish a *prima facie* case of obviousness because the proposed combination does not teach each and every element of claims 6, 17, and 28, there is no suggestion or motivation to make the proposed combination, and there is no reasonable expectation of success in the proposed combination. Applicants request reversal of the rejection of claims 6, 17, and 28.

**The Combination of Gallick and Timonen
Does Not Teach All of Applicants’ Claim Limitations**

To establish a *prima facie* case of obviousness, the proposed combination of Gallick and Timonen must teach or suggest all of Applicants’ claim limitations. *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974). Rejected claims 6, 17, and 28 depend from independent claims 1, 12, and 23 and include the limitations “identifying, at said destination device, a callee identity associated with said utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call.” As

demonstrated above, Gallick does not teach this limitation. Gallick instead discloses a voice identification recognizer located on a personal computer or on a server on the network where the softphone resides. Gallick, column 6, lines 4-20. Timonen does not teach what Gallick lacks. Instead, Timonen at Figure 3 and page 6, paragraphs 0055 and 0056, discloses an encrypted message containing a digital signature sent to a third party. Such an encrypted message is not identifying, at said destination device, a callee identity associated with said utterance. In fact, a destination device is not even mentioned in the cited sections of Timonen. Because the combination of Gallick and Timonen does not teach each and every limitation of claims 6, 17, and 28, the combination of Gallick and Timonen cannot establish a *prima facie* case of obviousness. The rejection should be reversed and the case allowed.

No Suggestion or Motivation to Modify Gallick or
Combine of Gallick and Timonen

To establish a *prima facie* case of obviousness, there must be a suggestion or motivation to modify Gallick. *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991). The suggestion or motivation to modify Gallick must come from the teaching of Gallick itself and the Examiner must explicitly point to the teaching within Gallick suggesting the proposed modification. Absent such a showing, the Examiner has impermissibly used “hindsight” occasioned by Applicants’ own teaching to reject the claims. *In re Surko*, 11 F.3d 887, 42 U.S.P.Q.2d 1476 (Fed. Cir. 1997); *In re Vaeck*, 947 F.2d 488m 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); *In re Gorman*, 933 F.2d 982, 986, 18 U.S.P.Q.2d 1885, 1888 (Fed. Cir. 1991); *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); *In re Laskowski*, 871 F.2d 115, 117, 10 U.S.P.Q.2d 1397, 1398 (Fed. Cir. 1989). The Office Action fails to point to teaching within either Gallick or Timonen suggesting their combination. Without more, the rejection should be reversed.

There is in fact no teaching in either Gallick or Timonen suggesting the proposed combination. As discussed above, Gallick discloses a voice identification recognizer located on a personal computer or on a server on the network where the softphone resides. Gallick, column 6, lines 4-20. Timonen at Figure 3 and page 6, paragraphs

0055, 0056 discloses an encrypted message containing a digital signature sent to a third party. There is no suggestion to combine the encrypted message of Timonen with the voice identification recognizer of Gallick. The combination of Gallick and Timonen therefore cannot support a *prima facie* case of obviousness. The rejection should be reversed and the case allowed.

No Reasonable Expectation of Success
In the Proposed Combination of Gallick and Timonen

To establish a *prima facie* case of obviousness, there must be a reasonable expectation of success in the proposed combination of Gallick and Timonen. *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097, 231 USPQ 375, 379 (Fed. Cir. 1986). There is no reasonable expectation of success to combine Gallick and Timonen. As discussed above, Gallick discloses a voice identification recognizer located on a personal computer or on a server on the network where the softphone resides. Gallick, column 6, lines 4-20. Timonen at Figure 3 and page 6, paragraphs 0055, 0056 discloses an encrypted message containing a digital signature sent to a third party. The encrypted message of Timonen combined with the voice identification recognizer of Gallick will not work to identify, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call as claimed in the present application. As such, the proposed combination and Gallick and Timonen therefore cannot establish a *prima facie* case of obviousness. The rejection should be reversed and the case allowed.

Argument Regarding The Fifth Ground Of
Rejection: Claims 9 And 20 Stand Rejected Under
35 U.S.C. 103(A) As Being Unpatentable
Over Gallick In View Of Baker

Claims 9 and 20 stand rejected under 35 U.S.C. § 103 as unpatentable over Gallick in view of Baker. The combination of Gallick and Baker also cannot establish a *prima facie* case of obviousness because the proposed combination does not teach each and every element of claims 9 and 20, there is no suggestion or motivation to make the proposed

combination, and there is no reasonable expectation of the success in the proposed combination. Applicants request reversal of the rejection of claims 9 and 20.

The Combination of Gallick and Baker
Does Not Teach All of Applicants' Claim Limitations

To establish a *prima facie* case of obviousness, the proposed combination of Gallick and Baker must teach or suggest all of Applicants' claim limitations. *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974). The proposed combination of Gallick and Baker does not teach each and every element of claims 9 and 20. Claim 9 depends from independent claim 1 and includes the limitation "identifying, at said destination device, a callee identity associated with said utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call." Claim 20 depends from claim 12 and includes the limitation "means for identifying a callee identity associated with said voice utterance at said destination device, such that said callee identity is transmittable as an authenticated identity of said callee for a call." As discussed above, Gallick does not disclose "identifying, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call" as claimed in the present application. Gallick instead discloses a voice identification recognizer located on a personal computer or on a server on the network where the softphone resides. Gallick, column 6, lines 4-20. Baker does not teach what Gallick lacks. Baker instead discloses a telecommunications system with a PBX. *See for example* Baker, abstract, column 2 lines 40-50. In fact, Baker also does not even address authentication. Because the proposed combination of Gallick and Baker fails to teach every element of claims 9 and 20, the combination cannot establish a *prima facie* case of obviousness. The rejection should be reversed and the case allowed.

No Suggestion or Motivation to Modify Gallick or
Combine of Gallick and Baker

To establish a *prima facie* case of obviousness, there must be a suggestion or motivation to modify Gallick. *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991). The suggestion or motivation to modify Gallick must come from the teaching of Gallick itself and the Examiner must explicitly point to the teaching within Gallick suggesting the proposed modification. Absent such a showing, the Examiner has impermissibly used “hindsight” occasioned by Applicants’ own teaching to reject the claims. *In re Surko*, 11 F.3d 887, 42 U.S.P.Q.2d 1476 (Fed. Cir. 1997); *In re Vaeck*, 947 F.2d 488m 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); *In re Gorman*, 933 F.2d 982, 986, 18 U.S.P.Q.2d 1885, 1888 (Fed. Cir. 1991); *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); *In re Laskowski*, 871 F.2d 115, 117, 10 U.S.P.Q.2d 1397, 1398 (Fed. Cir. 1989). The Office Action fails to point to teaching within either Gallick or Baker suggesting their combination. Without more, the rejection should be reversed.

There is in fact no teaching in either Gallick or Baker suggesting “identifying, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call.” As discussed above, Gallick discloses a voice identification recognizer located on a personal computer or on a server on the network where the softphone resides. Gallick, column 6, lines 4-20. Baker discloses a telecommunications system with a PBX. *See for example* Baker, abstract, column 2 lines 40-50. There is no suggestion in either Baker or Gallick to combine the telecommunications system of Baker with the voice identification recognizer of Gallick. The combination of Gallick and Baker therefore cannot support a *prima facie* case of obviousness. The rejection should be reversed and the case allowed.

No Reasonable Expectation of Success
In the Proposed Combination of Gallick and Baker

To establish a *prima facie* case of obviousness, there must be a reasonable expectation of success in the proposed combination of Gallick and Baker. *In re Merck & Co., Inc.*, 800

F.2d 1091, 1097, 231 USPQ 375, 379 (Fed. Cir. 1986). There is no reasonable expectation of success to combine Gallick and Baker. As discussed above, Gallick discloses a voice identification recognizer located on a personal computer or on a server on the network where the softphone resides. Gallick, column 6, lines 4-20. Baker discloses a telecommunications system with a PBX. *See for example* Baker, abstract, column 2 lines 40-50. The telecommunications system of Baker combined with the voice identification recognizer of Gallick will not work to identify, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call as claimed in the present application. As such, the proposed combination and Gallick and Baker therefore cannot establish a *prima facie* case of obviousness. The rejection should be reversed and the case allowed.

The Four Factual Inquiries Required By The Supreme Court For An Obviousness Rejection Have Not Been Properly Considered, Determined, and Applied

Establishing a *prima facie* case of obviousness for claims 2, 3, 6, 9, 13, 14, 17, 20, 24, 25, and 28, which has not been accomplished, is not the end of obviousness analysis, it is the beginning. The rejection of these Applicants' claims under 35 U.S.C. § 103 are deficient because the proper factual inquiries have not been considered, determined, and applied as required by the Supreme Court in *Graham v. John Deere*. The rejection should therefore be reversed and the case allowed.

The Manual of Patent Examining Procedure §2141 explicitly states:

Patent examiners carry the responsibility of making sure that the standard of patentability enunciated by the Supreme Court and by the Congress is applied in each and every case. The Supreme Court in *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966), stated:

Under Section 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this

background, the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented. As indicia of obviousness or nonobviousness, these inquiries may have relevancy...

This is not to say, however, that there will not be difficulties in applying the nonobviousness test. What is obvious is not a question upon which there is likely to be uniformity of thought in every given factual context. The difficulties, however, are comparable to those encountered daily by the courts in such frames of reference as negligence and scienter, and should be amenable to a case-by-case development. We believe that strict observance of the requirements laid down here will result in that uniformity and definitiveness which Congress called for in the 1952 Act.

Office policy has consistently been to follow *Graham v. John Deere Co.* in the consideration and determination of obviousness under 35 U.S.C. 103. As quoted above, the four factual inquires enunciated therein as a background for determining obviousness are briefly as follows:

- (A) Determining of the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) Evaluating evidence of secondary considerations.

Manual of Patent Examining Procedure §2141.

In over three years of prosecution, the Examiner has yet to even mention the four factual inquiries required by the Supreme Court in *Graham v. John Deere*, and all four factual inquires have not been properly considered, determined, and applied in any of the office actions in this case.

The first factual inquiry that has not been properly considered and determined is ascertaining the differences between the prior art and the claims in issue. More particularly, in the present office action the Examiner has only identified elements in Applicants' claims not found in Gallick and then attempted to find a similar element in Bartholomew, McAllister, Timonen, or Baker to support an obviousness rejection. Such analysis is improper and incomplete. "Ascertaining the differences between the prior art and the claims at issue requires interpreting the claim language, and considering both the invention and the prior art references as a whole." MPEP §2141.02. Furthermore, "[i]n determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious." *Id.*, citing *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530 (Fed. Cir. 1983). The analysis of the present office action is improper and incomplete because Examiner has not determined whether Applicants claims as a whole would have been obvious in view of a combination of Gallick and Bartholomew, McAllister, Timonen, or Baker as required by the Manual of Patent Examining Procedure. In fact, the Examiner has not even mentioned how the claim as a whole would be obvious in rejecting any claim. As such, the obviousness rejections should be reversed and the case should be allowed.

The second factual inquiry that has not been properly considered, determined, and applied is resolving the level of ordinary skill in the pertinent art. "The importance of resolving the level of ordinary skill in the art lies in the necessity of maintaining objectivity in the obviousness inquiry." MPEP §2141.03 citing *Ryko Mfg. Co. v. Nu-Star, Inc.*, 950 F.2d 714, 718, 21 USPQ2d 1053, 1057 (Fed. Cir. 1991). "The examiner must ascertain what would have been obvious to one of ordinary skill in the art at the time the invention was made, and not to the inventor, a judge, a layman, those skilled in remote arts, or to geniuses in the art at hand." *Id.* citing *Environmental Designs, Ltd. v. Union Oil Co.*, 713 F.2d 693, 218 USPQ 865 (Fed. Cir. 1983), cert. denied, 464 U.S. 1043 (1984). "Factors that may be considered in determining level of ordinary skill in the art include (1) the educational level of the inventor; (2) type of problems encountered in the art; (3) prior art solutions to those problems; (4) rapidity with which innovations are made; (5)

sophistication of the technology; and (6) educational level of active workers in the field." *Id.* citing *Environmental Designs, Ltd. v. Union Oil Co.*, 713 F.2d 693, 696, 218 USPQ 865, 868 (Fed. Cir. 1983), cert. denied, 464 U.S. 1043 (1984). The present office action fails to apply a single factor to consider in determining the level of ordinary skill in the art. In fact, in over three years of prosecution and five office actions, no analysis at all considering the level of one of ordinary skill in the art for the instant case has been performed. The rejection is therefore deficient and the rejection should be reversed.

Conclusion of Appellants' Arguments

To anticipate claims 1, 4, 5, 7, 8, 10-12, 15, 16, 18, 19, 21-23, 26, 27, 29, 30, and 35-39, Gallick must disclose each and every element as set forth in the claims 1, 4, 5, 7, 8, 10-12, 15, 16, 18, 19, 21-23, 26, 27, 29, 30, and 35-39 and be an enabling disclosure of claims 1, 4, 5, 7, 8, 10-12, 15, 16, 18, 19, 21-23, 26, 27, 29, 30, and 35-39. Because Gallick does not disclose or place one of ordinary skill in the art in possession Applicants' claims, Gallick cannot anticipate claims 1, 4, 5, 7, 8, 10-12, 15, 16, 18, 19, 21-23, 26, 27, 29, 30, and 35-39 within the meaning of 35 USC § 102. Gallick alone or in combination with Bartholomew, McAllister, Timonen, or Baker does not establish a *prima facie* case of obviousness according to 35 USC § 103. The proposed combinations of Gallick and Bartholomew, McAllister, Timonen, or Baker fail to establish a *prima facie* case of obviousness because the proposed combinations present no suggestions or motivation to combine the references, there is no reasonable expectation of success in the proposed combinations, and the proposed combinations do not teach all of Applicant's claim limitations. Applicants therefore respectfully request the allowance of claims 1-30 and 35-39.

In view of the forgoing arguments, reversal on all grounds of rejection is requested.

The Commissioner is hereby authorized to charge or credit Deposit Account No. 09-0447 for any fees required or overpaid.

Respectfully submitted,



By:

H. Artoush Ohanian
Reg. No. 46,022
Biggers & Ohanian, LLP
P.O. Box 1469
Austin, Texas 78767-1469
Tel. (512) 472-9881
Fax (512) 472-9887
ATTORNEY FOR APPELLANTS

**APPENDIX OF CLAIMS
ON APPEAL IN PATENT APPLICATION OF
MICHAEL WAYNE BROWN, *ET AL.*, SERIAL NO. 10/015,280**

CLAIMS

What is claimed is:

1. A method for identifying a particular callee, said method comprising:
detecting, at a destination device, a voice utterance of a callee; and
identifying, at said destination device, a callee identity associated with said voice
utterance, such that said callee identity is transmittable as an authenticated
identity of said callee for a call.
2. The method for identifying a particular callee according to claim 1, further
comprising:
prompting said callee, from said destination device, to provide said voice
utterance.
3. The method for identifying a particular callee according to claim 1, further
comprising:
prompting said callee to enter an additional input to verify said callee identity.
4. The method for identifying a particular callee according to claim 1, wherein
identifying a callee identity further comprises:

extracting speech characteristics from said voice utterance; and
comparing said speech characteristics with a plurality of voice samples stored for identifying a plurality of callees.

5. The method for identifying a particular callee according to claim 1, further comprising:

transmitting said voice utterance to a third party device via a network; and
receiving said callee identity from said third party device.

6. The method for identifying a particular callee according to claim 1, further comprising:

requesting a voice sample for said particular callee from a third party device accessible via a network; and

receiving said voice sample for said particular callee for enabling authenticating of said callee identity.

7. The method for identifying a particular callee according to claim 1, further comprising:

transferring said callee identity to an origin device, wherein said origin device is enabled to output said callee identity to a caller, wherein said caller is enabled to select whether to communicate with said callee.

8. The method for identifying a particular callee according to claim 1, further comprising:

receiving a preferred callee selection from a caller at said destination device; and
automatically terminating said call if said callee identity is different than said
preferred callee.

9. The method for identifying a particular callee according to claim 1, wherein said destination device is a private exchange network.
10. The method for identifying a particular callee according to claim 1, wherein said destination device is a telephony device.
11. The method for identifying a particular callee according to claim 1, wherein said callee identity comprises at least one from among a callee name, a callee location, a subject of said call, and a device identification.
12. A system for identifying a particular callee, said system comprising:
 - a destination device enabled to receive a call;
 - means for detecting a voice utterance of a callee at said destination device; and
 - means for identifying a callee identity associated with said voice utterance at said destination device.
13. The system for identifying a particular callee according to claim 12, further comprising:
 - means for prompting said callee, from said destination device, to provide said voice utterance.

14. The system for identifying a particular callee according to claim 12, further comprising:
 - means for prompting said callee to enter an additional input to verify said callee identity.
15. The system for identifying a particular callee according to claim 12, wherein said means for identifying a callee identity further comprises:
 - means for extracting speech characteristics from said voice utterance; and
 - means for comparing said speech characteristics with a plurality of voice samples stored for identifying a plurality of callees.
16. The system for identifying a particular callee according to claim 12, further comprising:
 - means for transmitting said voice utterance to a third party device via a network; and
 - means for receiving said callee identity from said third party device.
17. The system for identifying a particular callee according to claim 12, further comprising:
 - means for requesting a voice sample for said particular callee from a third party device accessible via a network; and
 - means for receiving said voice sample for said particular callee for enabling authentication of said callee identity.

18. The system for identifying a particular callee according to claim 12, further comprising:

means for transferring said callee identity to an origin device, wherein said origin device is enabled to output said callee identity to a caller, wherein said caller is enabled to select whether to communicate with said callee.
19. The system for identifying a particular callee according to claim 12, further comprising:

means for receiving a preferred callee selection from a caller at said destination device; and

means for automatically terminating said call if said callee identity is different than said preferred callee.
20. The system for identifying a particular callee according to claim 12, wherein said destination device is a private exchange network.
21. The system for identifying a particular callee according to claim 12, wherein said destination device is a telephony device.
22. The system for identifying a particular callee according to claim 12, wherein said callee identity comprises at least one from among a callee name, a callee location, a subject of said call, and a device identification.
23. A computer program product for identifying a particular callee, said computer program product comprising:

a recording medium;

means, recorded on said recording medium, for detecting a voice utterance of a callee at a destination device; and

means, recorded on said recording medium, for identifying a callee identity associated with said voice utterance at said destination device.

24. The computer program product for identifying a particular callee according to claim 23, further comprising:

means, recorded on said recording medium, for prompting said callee to provide said voice utterance from said destination device.

25. The computer program product for identifying a particular callee according to claim 23, further comprising:

means, recorded on said recording medium, for prompting said callee to enter an additional input to verify said callee identity.

26. The computer program product for identifying a particular callee according to claim 23, further comprising:

means, recorded on said recording medium, for extracting speech characteristics from said voice utterance; and

means, recorded on said recording medium, for comparing said speech characteristics with a plurality of voice samples stored for identifying a plurality of callees.

27. The computer program product for identifying a particular callee according to claim 23, further comprising:

means, recorded on said recording medium, for transmitting said voice utterance to a third party device via a network; and

means, recorded on said recording medium, for receiving said callee identity from said third party device.

28. The computer program product for identifying a particular callee according to claim 23, further comprising:

means, recorded on said recording medium, for requesting a voice sample for said particular callee from a third party device accessible via a network; and

means, recorded on said recording medium, for receiving said voice sample for said particular callee for enabling authentication of said callee identity.

29. The computer program product for identifying a particular callee according to claim 23, further comprising:

means, recorded on said recording medium, for transferring said callee identity to an origin device, wherein said origin device is enabled to output said callee identity to a caller, wherein said caller is enabled to select whether to communicate with said callee.

30. The computer program product for identifying a particular callee according to claim 23, further comprising:

means, recorded on said recording medium, for receiving a preferred callee selection from a caller at said destination device; and

means, recorded on said recording medium, for automatically terminating said call if said callee identity is different than said preferred callee.

35. A method for identifying a callee, said method comprising:

detecting a biometric input at a biometric enabled destination device;

identifying a callee identity associated with said biometric input at said destination device, such that said callee identity is transmittable as an authenticated identity of said callee for a call.

36. The method for identifying a callee according to claim 35, wherein said biometric input comprises at least one from among an eye print, a finger print, a voice input, and a body heat scan.

37. A system for identifying a callee, said system comprising:

a biometric input enabled device;

means for detecting a biometric input at said biometric input enabled destination device;

means for identifying a callee identity associated with said biometric input at said destination device, wherein said callee identity is transmittable as an authenticated identity of said callee for a call.

38. The system for identifying a callee according to claim 37, wherein said biometric input comprises at least one from among an eye print, a finger print, a voice input, and a body heat scan.
39. A computer program product for identifying a callee, said computer program product comprising:
 - a recording medium;
 - means, recorded on said recording medium, for detecting a biometric input at said biometric input enabled destination device;
 - means, recorded on said recording medium, for identifying a callee identity associated with said biometric input at said destination device, wherein said callee identity is transmittable as an authenticated identity of said callee for a call.

**APPENDIX OF EVIDENCE
ON APPEAL IN PATENT APPLICATION OF
MICHAEL WAYNE BROWN, *ET AL.*, SERIAL NO. 10/015,280**

This is an evidence appendix in accordance with 37 CFR § 41.37(c)(1)(ix).

There is in this case no evidence submitted pursuant to 37 CFR §§ 1.130, 1.131, or 1.132, nor is there in this case any other evidence entered by the examiner and relied upon by the appellants.

RELATED PROCEEDINGS APPENDIX

This is a related proceedings appendix in accordance with 37 CFR § 41.37(c)(1)(x).

There are no decisions rendered by a court or the Board in any proceeding identified pursuant to 37 CFR § 41.37(c)(1)(ii).